

the apportionment of responsibilities and costs, including, but not limited to, those related to child find, evaluation, diagnosis, remediation or therapeutic measures, and (where appropriate) equipment and medical or personal supplies, or both, as needed for a child to remain in school or a program; and

(9) Includes an assurance that the Department of the Interior will cooperate with the Department of Education in the latter's exercise of monitoring and oversight of this application, and any agreements entered into between the Secretary of the Interior and other entities under the Act and will fulfill its duties under the Act.

(b) Sections 300.581-300.585 apply to grants available to the Secretary of the Interior under this part.

(Authority: 20 U.S.C. 1411(f))

#### **§ 300.261 Public participation.**

In the development of the application for the Department of the Interior, the Secretary of the Interior shall provide for public participation consistent with §§ 300.280-300.284.

(Authority: 20 U.S.C. 1411(f))

#### **§ 300.262 Use of part B funds.**

(a)(1) The Department of the Interior may use five percent of its payment under § 300.709 in any fiscal year, or \$350,000, whichever is greater, for administrative costs in carrying out the provisions of this part.

(2) The remainder of the payments to the Secretary of the Interior under § 300.709 in any fiscal year must be used in accordance with the priorities under §§ 300.320-300.324.

(b) Payments to the Secretary of the Interior under § 300.710 must be used in accordance with that section.

(Authority: 20 U.S.C. 1411(f))

#### **§ 300.263 Applicable regulations.**

The Secretary of the Interior shall comply with the requirements of §§ 300.301-300.303, §§ 300.305-300.307, and §§ 300.340-300.347, § 300.350, §§ 300.360-300.383, §§ 300.400-300.402, §§ 300.500-300.585, §§ 300.600-300.621, and §§ 300.660-300.662.

(Authority: 20 U.S.C. 1411(f)(2))

#### **PUBLIC PARTICIPATION**

#### **§ 300.280 Public hearings before adopting a State plan.**

Prior to its adoption of a State plan, the SEA shall—

(a) Make the plan available to the general public;

(b) Hold public hearings; and

(c) Provide an opportunity for comment by the general public on the plan.

(Authority: 20 U.S.C. 1412(7))

(Approved by the Office of Management and Budget under control number 1820-0600)

[57 FR 44798, Sept. 29, 1992, as amended at 58 FR 13528, Mar. 11, 1993]

#### **§ 300.281 Notice.**

(a) The SEA shall provide notice to the general public of the public hearings.

(b) The notice must be in sufficient detail to inform the general public about—

(1) The purpose and scope of the State plan and its relation to part B of the Act;

(2) The availability of the State plan;

(3) The date, time, and location of each public hearing;

(4) The procedures for submitting written comments about the plan; and

(5) The timetable for developing the final plan and submitting it to the Secretary for approval.

(c) The notice must be published or announced—

(1) In newspapers or other media, or both, with circulation adequate to notify the general public about the hearings; and

(2) Enough in advance of the date of the hearings to afford interested parties throughout the State a reasonable opportunity to participate.

(Authority: 20 U.S.C. 1412(7))

(Approved by the Office of Management and Budget under control number 1820-0600)

[57 FR 44798, Sept. 29, 1992, as amended at 58 FR 13528, Mar. 11, 1993]

#### **§ 300.282 Opportunity to participate; comment period.**

(a) The SEA shall conduct the public hearings at times and places that afford interested parties throughout the

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State a reasonable opportunity to participate.

(b) The plan must be available for comment for a period of at least 30 days following the date of the notice under § 300.281.

(Authority: 20 U.S.C. 1412(7))

### **§ 300.283 Review of public comments before adopting plan.**

Before adopting its State plan, the SEA shall—

(a) Review and consider all public comments; and

(b) Make any necessary modifications in the plan.

(Authority: 20 U.S.C. 1412(7))

### **§ 300.284 Publication and availability of approved plan.**

After the Secretary approves a State plan, the SEA shall give notice in newspapers or other media, or both, that the plan is approved. The notice must name places throughout the State where the plan is available for access by any interested person.

(Authority: 20 U.S.C. 1412(7))

(Approved by the Office of Management and Budget under control number 1820-0600)

[57 FR 44798, Sept. 29, 1992, as amended at 58 FR 13528, Mar. 11, 1993]

## **Subpart C—Services**

### **FREE APPROPRIATE PUBLIC EDUCATION**

#### **§ 300.300 Timelines for free appropriate public education.**

(a) *General.* Each State shall ensure that FAPE is available to all children with disabilities aged 3 through 18 within the State not later than September 1, 1978, and to all children with disabilities aged 3 through 21 within the State not later than September 1, 1980.

(b) *Age ranges 3–5 and 18–21.* This paragraph provides rules for applying the requirement in paragraph (a) of this section to children with disabilities aged 3, 4, 5, 18, 19, 20, and 21:

(1) If State law or a court order requires the State to provide education for children with disabilities in any disability category in any of these age groups, the State must make FAPE

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available to all children with disabilities of the same age who have that disability.

(2) If a public agency provides education to nondisabled children in any of these age groups, it must make FAPE available to at least a proportionate number of children with disabilities of the same age.

(3) If a public agency provides education to 50 percent or more of its children with disabilities in any disability category in any of these age groups, it must make FAPE available to all its children with disabilities of the same age who have that disability. This provision does not apply to children aged 3 through 5 for any fiscal year for which the State receives a grant under section 619(a)(1) of the Act.

(4) If a public agency provides education to a child with a disability in any of these age groups, it must make FAPE available to that child and provide that child and his or her parents all of the rights under part B of the Act and this part.

(5) A State is not required to make FAPE available to a child with a disability in one of these age groups if—

(i) State law expressly prohibits, or does not authorize, the expenditure of public funds to provide education to nondisabled children in that age group; or

(ii) The requirement is inconsistent with a court order that governs the provision of free public education to children with disabilities in that State.

(c) *Children aged 3 through 21 on reservations.* With the exception of children identified in § 300.709(a)(1) and (2), the SEA shall be responsible for ensuring that all of the requirements of part B of the Act are implemented for all children aged 3 through 21 on reservations.

(Authority: 20 U.S.C. 1411(f); 1412(2)(B); S. Rep. No. 94-168, p. 19 (1975))

NOTE 1: The requirement to make FAPE available applies to all children with disabilities within the State who are in the age ranges required under § 300.300 and who need special education and related services. This includes children with disabilities already in school and children with less severe disabilities, who are not covered under the priorities under § 300.321.